3622.

SUPREME COURT OF THE UNITED STATES.

No. 199.

JAMES S. MORSELL, SPECIAL BAIL OF WILLIAM SMITH, PLAINTIFF IN ERROR,

vs.

HENRY A. HALL.

IN ERROR TO THE CIRCUIT COURT, U. S., FOR THE DISTRICT OF MARYLAND

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HENRY A. HALL
vs.
JAMES S. MORSELL, special bail of Wm. Smith.

Transcript of the record for the Supreme Court of the United States.

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

At a circuit court of the United States, for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-nine.

Present, the honorable Roger B. Taney, chief justice of the Supreme Court of the United States; U. S. Heath, judge of Maryland district; William L. Marshall, esquire, attorney; Moreau Forrest, esquire, marshal; Thomas Spicer, clerk.

Among other were the following proceedings, to wit:

HENRY A. HALL
vs.
JAMES S. MORSELL, special bail of Wm. Smith.

Be it remembered, that heretofore, to wit, on the twelfth day of November, in the year of our Lord one thousand eight hundred and forty-seven, the said Henry A. Hall, by John M. Gordon and Grafton Dulany, his attorneys, prosecuted and sued forth, of and upon a judgment in the court here rendered, the writ of the United States of America of scire facias, to the marshal of the Maryland district aforesaid directed, in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To the marshal for the Maryland district, greeting:

[SEAL.] Whereas at a circuit court of the United States, for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in November, in the year of our Lord one thousand eight hundred and forty-three, William Smith, by David Stewart, his attorney, files in the circuit here a certain bail piece, of the tenor following, to wit:

HENRY A. HALL, plaintiff,
vs.
WILLIAM SMITH, defendant.

You, Fielder B. Smith and James S. Morsell, do jointly and severally acknowledge yourselves special bail for William Smith, at the suit

of Henry A. Hall, in a plea of trespass on the case, and so forth, brought by the said Henry A. Hall against the said William Smith, in the circuit court of the United States, for the district of Maryland, to be held at the city of Baltimore, on the first Monday of November next.

They acknowledge themselves content therewith, this fifth day of July, in the year eighteen hundred and forty-three.

Acknowledged before—

R. H. RAWLINGS, [SEAL.]
Justice of the peace of the State of Maryland, in and for Calvert county.

BENJAMIN OWENS, [SEAL.]
Justice of the peace of the State of Maryland, in and for Calvert county.

I, William Smith, the defendant in the above cause, authorize and appoint David Stewart, esquire, an attorney of the aforesaid court, to appear for me in the above action.

Given under my hand and seal, this fifth day of July, in the year eighteen hundred and forty-three.

WILLIAM SMITH. [SEAL.]

To the honorable the JUDGES
Of the circuit court of the United States, for the Maryland district.

And whereas, also, at a circuit court of the United States, for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-seven, Henry A. Hall, a citizen of the State of Maryland, by the judgment of the same court, recovered against William Smith, a citizen of the State of Mississippi, as well the sum of six thousand dollars, current money, for his damages which he has sustained by reason of the non-performance of certain promises and assumptions by the said William Smith to the said Henry A. Hall before that time made, as the sum of seventy dollars and twenty-seven cents, for his costs and charges by him about his suit in that behalf laid out and expended, whereof the said William Smith is convict, as of record it manifestly appears.

And whereas, also, afterwards, to wit, on the third day of May, in the year of our Lord one thousand eight hundred and forty-seven, the said Henry A. Hall, by John M. Gordon and Grafton L. Dulany, his attorneys, prosecuted and sued forth out of the circuit court here the writ of the said United States of America of capias ad satisfaciendum on the judgment aforesaid, so as aforesaid rendered, to the marshal of the Maryland district aforesaid directed, in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA,
District of Maryland, to wit:

To the marshal for the Maryland district, greeting:

[SEAL.] Whereas at a circuit court of the United States, for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-seven, Henry A. Hall, a citizen of the State of Maryland, by the judgment of the same court, recovered against William Smith, a citizen of the State of Mississippi, as well the sum of six thousand dollars, current money, for his damages which he had sustained by reason of the non-performance of certain promises and assumptions by the said William Smith to the said Henry A. Hall before that time made, as the sum of seventy dollars and twenty-seven cents, for his costs and charges by him about his suit in that behalf laid out and expended, whereof the said William Smith is convict of record it manifestly appears.

Therefore, you are hereby commanded to take the said William Smith, if he shall be found in your district, and him safe keep, so that you have his body before the said circuit court, to be held in the city of Baltimore, on the first Monday in November next, to satisfy unto the said Henry A. Hall the damages, costs, and charges aforesaid; hereof you are not to fail at your peril, and have you then and there this writ.

Witness honorable R. B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-six.

THOMAS SPICER, *Clerk circuit court.*

J. M. G. G. L. D. Issued 3d May, 1847.

(Endorsed.)

Henry A. Hall vs. William Smith.

Case—damages $6,000.

Costs, $70 27, additional costs, 60.

To be released on payment of $3,928 58, with interest from 22d April, 1847, and costs.

Judgment 22d April, 1847. J. M. G. & G. L. D.

At which said first Monday in November, in the year of our Lord one thousand eight hundred and forty-seven, being the day of the return of the aforegoing writ, comes into the circuit court here the marshal of the Maryland district aforesaid, to whom the said aforegoing writ was in form aforesaid directed, makes return thereof to the court here thereon endorsed, to wit, "non est."

MOREAU FORREST,
U. S. Marshal.

Nevertheless, the said William Smith, the said damages, costs, and charges aforesaid, to the said Henry A. Hall, hath not satisfied, nor

his body in execution of such judgment to the public prison of the district aforesaid hath rendered according to the form of the recognisance aforesaid, as by the suggestion of the said Henry A. Hall in the said court hath been stated.

Wherefore the said Henry A. Hall hath besought that a proper remedy be granted unto him in this behalf; and as it is right that those things which in the said court are lawfully transacted and adjudged, should be carried into full and speedy execution; therefore, you are hereby commanded, that by good and lawful men of your district you give notice to the said James S. Morsell that he be and appear before the said circuit court, to be held at the city of Baltimore, on the first Monday in April next, to shew, if he hath or can say anything for himself, why the said Henry A. Hall ought not to have his execution against him for the damages, costs, and charges aforesaid, according to the force, form, and effect of the recognisance aforesaid, if he shall think fit; and further, to do and receive all and singular those things which the said court shall then and there consider concerning him in this behalf; and have you then and there the names of those by whom you shall make the same known unto him, and this writ.

Witness the honorable R. B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-six.

THO. SPICER,
Clerk circuit court.

Issued 12th November, 1847.

J. M. G., G. L. D.

(*Endorsed.*)

No. 1. Henry A. Hall vs. James S. Morsell.
Special bail of William Smith.
Sci. fa. dama. $6,000; costs, $70 27; addl. 60.
To be released on payment of $3,928 58, with interest from 22d April, 1847.

J. M. G. & G. L. D.

Judgment 22d April, 1847.

At which said first Monday in April, in the year of our Lord one thousand eight hundred and forty-eight, being the return day of the said aforegoing writ, comes into the circuit court here the said Henry A. Hall, by his attorneys aforesaid, and the marshal of the Maryland district aforesaid, to whom the said writ was in form aforesaid directed, makes return thereof to the court here thus endorsed, to wit:

"Make known in the presence of Dr. Johnson Broone and Joseph Spalding, this 10th day of February, 1848."

And the said James S. Morsell being so forewarned, now comes into the circuit court here, by David Stewart and Reverdy Johnson, his attorneys.

And thereupon on motion of the said Henry A. Hall, by his attorneys aforesaid, it is ruled by the court here, that the said James S. Morsell, special bail as aforesaid, answer to the writ of scire facias aforesaid, or execution will be awarded against him in default thereof.

Rule plea.

And the said James S. Morsell, by his attorneys aforesaid, files in the circuit court here the following pleas, to wit:

In the circuit court of the United [States,] for the fourth circuit, in and for the Maryland district. April term, 1848.

HENRY HALL
vs.
JAMES S. MORSELL, special bail of William Smith.

Pleas.

And the said James S. Morsell, the defendant in this action, by David Stewart, his attorney, comes and defends the wrong and injury, when, &c., and prays a hearing of the writ of scire facias aforesaid, and to him it is read as follows:

(Herein before inserted.)

Which being read and heard, he says, that the said Henry Hall, the plaintiff in this action, ought not to have his execution against him for the damages, costs, and charges aforesaid, in the writ of scire facias aforesaid mentioned, by virtue of the said recognisance, because he says, that there is no such record of recovery against the said William Smith of the damages, costs, and charges aforesaid in the writ of scire facias aforesaid mentioned, as the said Henry Hall, the plaintiff, hath alleged, and this he is ready to verify; wherefore, he prays judgment if the said Henry Hall, the plaintiff, ought to have his execution aforesaid, for the damages, costs, and charges aforesaid, by virtue of the recognisance aforesaid, &c.

And the said defendant, James S. Morsell, by leave of the court first had and obtained, according to the form of the statute in such case made and provided, further says, that the said Henry Hall, the plaintiff, ought not to have his execution against him for the said damages, costs, and charges, in the writ of scire facias aforesaid mentioned, because he says that before the said recognisance was entered into by this defendant, as bail of the said William Smith, in the said writ of scire facias mentioned, that is to say, on the third day of July, in the year eighteen hundred and forty-three, the said plaintiff, Henry Hall, filed, as cause of bail against said William Smith, a certain promissory note of said William Smith, bearing date, Baltimore, August the eighteenth, eighteen hundred and thirty-nine, and payable the first day of April next thereafter, for the sum of two thousand six hundred and seventy-eight dollars and ninety cents, which said promissory note, this defend-

ant avers, was paid before the original judgment in this cause was rendered against the said William Smith, and this he is ready to verify; wherefore he prays judgment, if the said Henry Hall, the plaintiff, ought to have his execution aforesaid, against this defendant, on his recognisance aforesaid, for his damages, costs, and charges aforesaid in the said writ of scire facias mentioned, &c.

DAVID STEWART,
Att'y for defend't.

Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is further continued until the first Monday in November next.

Afterwards, to wit, on the twenty-first day of October, in the year of our Lord one thousand eight hundred and forty-eight, the said Henry A. Hall, by his attorneys aforesaid, files in the circuit court here his replication to the first plea of the said James S. Morsell, special bail as aforesaid, by him above alleged, in form following, to wit:

Replication to the first plea.

And the said Henry A. Hall saith, that he, by anything by the said James S. Morsell, in his first plea above alleged, from having his execution against the said James, for the damages, costs, and charges aforesaid in the writ of scire facias aforesaid mentioned, to be precluded ought not, because he saith, that there is such record of the judgment aforesaid, and recovery of the damages, costs, and charges aforesaid, as he, by the writ of scire facias aforesaid allege, as appears of record in the said term in the said circuit court of the United States for the fourth circuit, in and for the Maryland district, at the city of Baltimore; and this he prays may be inquired of by the said record, and the said James doth the like, &c.

J. M. GORDON,
G. L. DULANY,
Plaintiff's attorneys.

Demurrer to the second plea.

And the said Henry A. Hall says, that he, by anything above in pleading by the said second plea alleged ought not to be precluded from having his execution thereof against him, the said James S. Morsell, special bail as aforesaid, because he says, that the plea aforesaid by the said James S. Morsell, in manner and form aforesaid above pleaded, and the matters in the same contained, are not sufficient in law to preclude him, the said Henry A. Hall, from his execution aforesaid thereof against him, the said James S. Morsell, and to which said plea in manner and form above pleaded, he, the said Henry A. Hall, hath no necessity, nor is he by the law of the land, in any manner to answer, and this he is ready to verify. Wherefore, for want of a sufficient plea in

this behalf, the said Henry A. Hall prays execution for his damages, costs, and charges aforesaid, to be adjudged to him, &c.

At which said first Monday in November, in the year of our Lord one thousand eight hundred and forty-eight, come again into the circuit court here, as well [as] the said Henry A. Hall, by his attorneys aforesaid, as the said James S. Morsell, special bail as aforesaid, by his said attorneys.

Thereupon further process of and upon the premises aforesaid between the parties aforesaid, by order of the court here thereon, is further continued until the first Monday in April next.

At which said first Monday in April, in the year of our Lord one thousand eight hundred and forty-nine, come again into the circuit court here as well the said Henry A. Hall, by his attorneys aforesaid, as the said James S. Morsell, special bail aforesaid, by his said attorneys.

And the said James S. Morsell, by his attorneys, files in the circuit court here a motion, in the words and of the tenor following, to wit:

In U. S. circuit court.

HALL
vs.
MORSELL, special bail of Smith.

April term, 1849.

Motion to enter exoneretur on the bail piece.

The special bail in this case moves the court that an "exoneretur" may be entered in this case, so that he may be discharged from all liability as special bail aforesaid; because the cause of action set forth in the affidavit to hold to bail is a different cause of action from that on which the verdict was rendered against Smith, the original defendant; and, 2nd, because the cause of action set forth in the affidavit, being a note for the sum of $\$2{,}678\frac{90}{100}$, had been paid before the verdict in the original suit was rendered, and said verdict was not rendered upon the cause of action set forth in the affidavit to hold to bail, but upon another promissory note, of different date and amount from the one set forth in the said affidavit to hold to bail.

DAVID STEWART,
Att'y for Morsell, special bail.

And the said James S. Morsell, by his attorneys aforesaid, files in the circuit court here an affidavit in the words following, to wit:

STATE OF MARYLAND.

City of Baltimore, sct:

On this seventh day of April, 1849, before the subscriber, a justice of the peace in and for the city aforesaid, personally appears David Stewart, and made oath on the holy evangely of Almighty God, that he was one of the counsel for William Smith, in the suit instituted

against him in the circuit court of the United States, by Henry Hall. That he was employed as counsel immediately upon the arrest of said Smith, and that he examined, with his said client, the affidavit to hold to bail, filed in the cause by John M. Gordon, esquire, the counsel of the plaintiff. That the said Smith informed this affiant that he had a letter from Mr. Gordon, acknowledging the payment of said note mentioned in said affidavit, and that he subsequently transmitted to this affiant the letter hereto annexed, which was used as evidence of the said payment at the trial of said cause, and being so used, induced the admission, by the counsel of the plaintiff on the said trial, of the fact of such payment, as in said letter stated.

Sworn before— JOHN J. SNYDER.

Letter from J. M. Gordon to W. Smith.

BALTIMORE, *Nov.* 19*th*, 1840.

WM. SMITH, esq.

DEAR SIR: Your favor Nov. 1st, is this moment received. The bill, $2,750, on N. O., to which you refer, came back protested for non-payment, and was followed, a few days afterwards, by a certificate of deposit for the amount, it having been paid after protest; $1,500 was paid, out of the proceeds, by McCaleb, on note of $2,669. The note for $2,678 $\frac{99}{100}$, has been paid in full by him. The cause of the protest having been explained by the parties who honored the bill, no laches are ascribed to you, or any one else. McCaleb left Baltimore yesterday for home, and promised to ship cotton to pay the balance due on note for $2,669, for which Henry Hall has confessed a judgment. He, McCaleb, expressed himself satisfied with the after payment, and explanation of non-payment at maturity.

Very truly,

Your most obedient servant,

JOHN M. GORDON.

And the said Henry A. Hall, by his attorney aforesaid, files in the circuit court here an affidavit in the words following, to wit:

Affidavit of John M. Gordon.

STATE OF MARYLAND, *city of Baltimore, sct.*

On the eleventh day of April, 1849, before me, the subscriber, a justice of the peace in and for the city aforesaid, personally appeared John M. Gordon, and made oath on the holy evangely of Almighty God, that he was one of the counsel for Henry Hall, in the suit instituted by him against William Smith, in the circuit court of the United States; that he does not remember whether the letter referred to in the affidavit of David Stewart, esq., filed in this cause, was or was not offered in evidence to the jury; that the fact was admitted at the trial,

that the note mentioned in the affidavit of said Stewart was paid before suit was brought in the case; but that it was not admitted to have been paid by Smith; on the contrary, it was denied to have been paid by Smith, and that the said note was offered in evidence to the jury by Hall.

Sworn before—

JOHN J. SNYDER.

Supplemental affidavit.

And the above affiant further states, that evidence was given to the jury, in the said case, that the said note was paid by said Hall by the hands of his agents, McCaleb and Donelson; that McCaleb had no money of his own; that Hall made such payments in virtue of an agreement he had made with a certain Richard Lemmon, esq., that he would save him harmless in having become bail of his (Hall's) son-in-law, McCaleb, in an action brought by Thornton, the holder of said note against McCaleb, as the accommodation endorser thereon, in order to relieve said McCaleb from arrest in said suit; that said note was in the possession of Hall at the trial, and by him given in evidence to support his action; and that the question whether said note was paid by Hall was argued before and submitted to the jury.

Sworn before—

JOHN J. SNYDER.

Baltimore, 14th April, 1849.

Court's opinion.

The only objection made by the defendant in this case, upon the plea of nul tiel records is that the recognisance of bail appears to have been taken before two justices of the peace of the State of Maryland. He insists that the recognisance is void, although it was received and sanctioned by the court.

This mode of taking bail conforms to the long established practice of this court. An act of assembly of Maryland, passed in 1715, ch. 28, sec. 2, authorized this mode of taking bail in suits in the then provincial court, which, like this court, had jurisdiction co-extensive with the State. This court adopted the practice, and has always since acted upon it.

The written rule, No. 62, adopted in 1802, was not intended to alter the previous practice of this court, and has never been so construed. It merely intended to confer the power upon other State officers also, so as to increase the facilities of giving bail where the defendant resided at a distance from the place of holding the court; for, upon searching the records we find recognisances of bail taken soon after the adoption of the rule of 1802, before two justices of the peace of the State, in the same manner with the recognisance now before the court. A precedent has been produced as far back as 1812, and a more careful search

would probably shew precedents still earlier. The same practice has continued without interruption ever since; and, indeed, any other rule would be oppressive to citizens of the State who reside at a distance from the place of holding the court, especially as they would most commonly be obliged to bring their bail with them. In the case before us the recognisance of bail having been taken and sanctioned according to the established rules and practice of this court, the judgment upon the plea of nul tiel record must be for the plaintiff.

Judgment.

Therefore it is considered by the court here, that the said Henry A. Hall have his execution against the said James S. Morsell, special bail of William Smith, for as well the damages, costs, and charges aforesaid, in the writ of scire facias aforesaid mentioned, according to the force, form, and effect of the recognisance aforesaid, as for the sum of twenty-five dollars and eighty-cents for his costs and charges, which he hath sustained by reason of the delay of the execution of the judgment aforesaid. And the said James S. Morsell in mercy, &c.

And now here, at this day, to wit, the third day of December, in the year of our Lord one thousand eight hundred and forty-nine, the said James S. Morsell, produced to the circuit court here the writ of the said United States of America, for the correcting of errors of and upon the premises, commanding the record and proceedings aforesaid of the judgment aforesaid, so as aforesaid rendered, with all things concerning the same, to be transmitted to the Supreme Court of the United States, to be held at the city of Washington, on the first Monday in December next, which said writ of error [is] in the words and of the tenor following, to wit:

THE UNITED STATES OF AMERICA.

The President of the United States, to the judges of the circuit court of the United States, for the fourth circuit, in and for the Maryland district, greeting:

{The seal of the circuit court, Md.} Because in the record and proceedings, as also in the rendition of the judgment of a plea, which is in the said circuit court, before you, or some of you, in which Henry A. Hall is plaintiff, and James S. Morsell, special bail of William Smith, is defendant, a manifest error hath happened, to the great damage of the said James S. Morsell, as by his complaint appears; we, being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at the city of Washington on the first Monday in December next, in the said Supreme Court to be then and there held, that the

record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein, to correct that error, what of right and according to the laws and custom of the United States should be done.

Witness the honorable Roger B. Taney, chief justice of our Supreme Court, the first Monday in December, in the year of our Lord one thousand eight hundred and forty-nine.

THO. SPICER,
Cl'k circuit court.

Issued 3d December, 1849.

In pursuance whereof, and according to the form and effect of the act of Congress in such case made and provided, a transcript of the record and proceedings of the judgment aforesaid, so as aforesaid rendered, with all things relating to the same, together with the said writ of error, are hereby transmitted to the said Supreme Court accordingly.

Writ of error bond.

Know all men by these presents, that we, James S. Morsell, junior, William H. S. Boswell, and Thomas Plummer, of the State of Maryland, are held and firmly bound unto Henry A. Hall, of Anne Arundel county, in said State, in the sum of six thousand dollars, current money of the United States, to be paid to the said Henry A. Hall, or to his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we bind ourselves, and every of us, our, and every of our, heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this twenty-seventh day of April, in the year of our Lord one thousand eight hundred and forty-nine.

Whereas, at a circuit court of the United States, for the fourth circuit, in and for the Maryland district, begun and held at the city of Baltimore, on the first Monday in April, in the year of our Lord one thousand eight hundred and forty-nine, the above named Henry A. Hall, by the judgment of the same court, recovered against James S. Morsell, special bail of William Smith, as well the sum of six thousand dollars, lawful money of the United States, his damages, which he had sustained by reason of the non-performance of the recognisance of bail entered into by the said James S. Morsell, as for his costs and charges by him about his suit in that behalf laid out and expended, whereof the said James S. Morsell is convict, as of record it manifestly appears; and whereas the said James S. Morsell hath sued out the writ of the United States of America for the correcting of errors, and a citation, directed to the said Henry A. Hall, citing and admonishing him to be and appear at a Supreme Court of the United States, to be held at the city of Washington, on the first Monday in December next, to show cause, if any there be, why the judgment so as aforesaid rendered should not be corrected, and why speedy justice should not be done to

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the parties in that behalf: Now, the condition of the above obligation is such, that if the said James S. Morsell shall well and truly prosecute with effect his said writ of error, and satisfy and pay unto the said Henry A. Hall, his executors, administrators, or assigns, the damages, costs, and charges adjudged unto the said Henry A. Hall by the circuit court aforesaid, as also all costs and damages that shall be awarded by the said Supreme Court of the United States in case he shall fail to make good his said plea, then the above obligation to be void and of none effect, otherwise to be and remain in full force and virtue.

JAMES S. MORSELL, Jr., [L. S.]
WM. H. S. BOSWELL, [L. S.]
THOS. PLUMMER. [L. S.]

Sealed and delivered in presence of—
THO. SPICER.

Bond approved, the counsel for the plaintiff having admitted in open court the sufficiency of the sureties.

U. S. HEATH.

April 30, 1849.

The United States of America, to Henry A. Hall, greeting:

You are hereby cited and admonished to appear at a supreme court of the United States, to be held at the city of Washington, on the first Monday in December next, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States, for the fourth circuit, in and for the Maryland district, in a case wherein James S. Morsell, special bail of William Smith, is plaintiff in error, and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said James S. Morsell, special bail as aforesaid, in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in this behalf.

Witness my hand and seal, at the city of Baltimore, in the district aforesaid, this third day of December, in the year of our Lord one thousand eight hundred and forty-nine.

R. B. TANEY. [SEAL.]

I acknowledge notice of the above citation.

G. L. DULANY,
Attorney for Henry A. Hall.

In testimony that the aforegoing is a true copy, taken from the record and proceedings of the circuit court aforesaid, I herewith subscribe my name, and affix the seal of the said circuit court, this tenth [SEAL.] day of January, in the year of our Lord one thousand eight hundred and fifty.

THOMAS SPICER,
Clerk Circuit Court.